

### **REMARKS/ARGUMENTS**

These remarks are made in response to the Office Action of February 19, 2008 (Office Action). As this response is timely filed within the 3-month shortened statutory period, no fee is believed due. However, the Examiner is expressly authorized to charge any deficiencies to Deposit Account No. 50-0951.

#### **Claims Rejections – 35 USC § 112**

Claims 11-20 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite. More specifically, it was asserted in the Office Action that there is insufficient antecedent basis in the claim for the limitation "machine-readable storage" recited in the preamble of Claims 11-20.

First, it is noted that "a machine-readable storage" was recited in independent Claims 11 and 20 and "the machine-readable storage" was recited in dependent Claims 12-19. Therefore, there is clearly antecedent basis for the limitation in the claim.

Second, assuming what was meant is that there is insufficient antecedent basis in the specification for the limitation "machine-readable storage," it is noted that this limitation is mentioned in the abstract. Also, it is noted that the term "machine-readable storage," interchangeable with "computer-readable medium," is a standard term used to describe categories of claims, just like the terms such as "device" and "method." Applicants respectfully maintain, therefore, that as presently formulated the claims indeed provide a sufficient antecedent basis to meet all statutory requirements and that the rejection is improper.

Accordingly, Applicants respectfully request that the claim rejections under 35 U.S.C. § 112, second paragraph, be withdrawn.

**Claims Rejections – 35 USC § 101**

Claims 21-22 were rejected under 35 U.S.C. § 101 because the claims lack the necessary physical articles or objects to constitute a machine or a manufacture within the meaning of 35 USC 101. It was further asserted in the Office Action that claims 21-22 are, at best, functional descriptive material *per se*.

As already discussed in the previous response, Applicants believe that Claims 21-22 recite a system which consists of different means or modules and thus set forth the necessary physical articles or objects to constitute a machine or a manufacture within the meaning of 35 USC 101.

It was asserted in the fourth paragraph on page 6 of the Office Action that applicant has indicated that the modules are simply software (Par. 14) and has even further indicated that the affinity application can be executable software or firmware (Par. 17). First, Applicants believe that paragraph 14 of the specification does not indicate that the elements or modules of the system as recited in Claims 21-22 are simply software, but rather that the affinity application 125 and/or the communications application 130 reside within the server 110, a physical article, as modules. Implementation of applications as modules residing in and executable by a server is conceptually different from mere software.

Second, it is noted that an invention can be implemented in different forms, such as a method, a device, or a computer product. Merely because it is indicated that the invention can be software, this does not exclude that, as claimed, the invention is a device or a computer system. Third, it is noted that the affinity application is only part of the computer system and thus the fact that the affinity application can be executable software or firmware does not obviate the fact that the system is implemented as a combination of hardware and software.

Also as already discussed in the previous response, Applicants believe that the system recited in claims 21-22 is not a functional descriptive material *per se*; rather it

consists of different means or modules which can be implemented as hardware or a combination of hardware and software.

In view of the above, Applicants respectfully request that the claim rejections under 35 U.S.C. § 101 be withdrawn.

### **Claims Rejections – 35 USC § 102**

Claims 1-22 were rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent 6,029,043 to Ho, *et al.* (hereinafter Ho).

Although Applicants respectfully disagree with the rejections, Applicants have amended the claims so as to expedite prosecution of the present Application. However, such amendments should not be interpreted as the surrender of any subject matter, and Applicants expressly reserve the right to present the original version of any of the amended claims in any future divisional or continuation applications from the present application.

Applicants have amended the claims to further emphasize certain aspects of the invention. As discussed herein, the claim amendments are fully supported throughout the Specification. No new matter has been introduced by the claim amendments.

### **Aspects of the Claims**

It may be helpful to reiterate certain aspects recited in the claims prior to addressing the cited references. One aspect of the invention, as typified by amended Claim 1, is a method for creating user groups in a network environment.

The method can include monitoring a plurality of user sessions, each session being associated with a different user; identifying at least one real-time affinity among the user sessions based on session data associated with currently active user sessions, an affinity being defined as a similarity between two or more user sessions; responsive to the affinity identification, forming a user group for users of user sessions having an identified

affinity; and facilitating the users of the user group to engage in communication. See, e.g., Specification, paragraphs [0021], [0023], and [0025]; see also Figs. 2 and 3.

As recited in amended Claim 2, the facilitating step can include presenting a user interface, such as a prompt, in the user sessions of the user group. See, e.g., Specification, paragraph [0019].

**The Claims Define Over The Prior Art**

Ho discloses a method and system for a number of users to interact and work together on a subject in a computer-aided group-learning environment. The system can include a user registry, which restricts the users who can use the embodiment to work on the subject. The registry can receive a potential user's characteristics to determine whether such user may be allowed to join the existing users to work on the subject. The registry can also access a summarized profile of the existing users to help the potential user make joining decisions. See Abstract.

However, Ho does not disclose identifying a real-time affinity among the user sessions based on session data associated with currently active user sessions, as recited in independent Claims 1, 11, and 21 of the instant application. First, in Ho the user's characteristics are not necessarily an affinity, namely, a similarity between two or more user sessions. Second, since the user's characteristics are obtained by a user registry or stored in a profile, they are not real-time characteristics. Third, in Ho the characteristics are determined for both existing users and potential users are thus not determined based on session data associated with currently active user sessions.

Further, Ho does not disclose, responsive to the affinity identification, forming a user group for users of user sessions having an identified affinity, as recited in independent Claims 1, 11, and 21 of the instant application. In Ho, the user's characteristics are not used to form a user group, but rather to determine whether such user may be allowed to join the group.

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The independent claims 1, 11, and 21 are, therefore, believed to be patentable over Ho and since all the dependent claims are ultimately dependent on the independent claims, they are believed to be patentable as well.

With regard to amended Claims 2, 20, and 22, it is noted that Ho does not disclose presenting a user interface, such as a prompt, in the user sessions of the user group so that the users can be informed of other users who have the identified affinity.

In view of the above, Applicants respectfully request that the claim rejections under 35 U.S.C. § 102 be withdrawn.

### CONCLUSION

Applicants believe that this application is now in full condition for allowance, which action is respectfully requested. Applicants request that the Examiner call the undersigned if clarification is needed on any matter within this Amendment, or if the Examiner believes a telephone interview would expedite the prosecution of the subject application to completion.

Respectfully submitted,

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